



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,288	09/08/2004	Ramon Diaz	28747.00004	5287

35161 7590 06/14/2007
DICKINSON WRIGHT PLLC
1901 L. STREET NW
SUITE 800
WASHINGTON, DC 20036

EXAMINER

SAADAT, CAMERON

ART UNIT	PAPER NUMBER
----------	--------------

3714

MAIL DATE	DELIVERY MODE
-----------	---------------

06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,288

Applicant(s)

DIAZ ET AL.

Examiner

Cameron Saadat

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/1/2006 has been entered. Claims 1-27 are pending in this application. Claim 28 is cancelled.

Claim Rejections - 35 USC § 102

Claims 1-11 and 13-27 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. Claims 1-11 and 13-28 are substantially identical and supported by parent application 10/097,783. Accordingly, a question of inventorship has been raised since declaration filed 3/13/2002 of parent application 10/097,783 identifies inventors Hector Manuel and Ramon Diaz, and declaration of this instant CIP application identifies inventors Ramon Diaz and Olga Diaz.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouba et al. (USPN 6,325,631; hereinafter Kouba) in view of Occupational Safety and Health Administration (OSHA 2254; Hereinafter OSHA).

Regarding claim 1, Kouba discloses a method of providing an interactive computer based training system and testing of building safety information (Col. 1, lines 44-50) comprising the steps of: identifying a building where the deployment of building safety information is needed (Col. 2, lines 33-40); creating a customized safety presentation; providing from an interactive computer based training system, a presentation to building tenant (Col. 4, lines 3-20); authenticating users of the presentation (Col. 4, lines 41-67); testing the tenant; and retaining the authentication data and test results (Col. 5, lines 1-9). Kouba discloses a safety instruction and testing method as mandated by the Occupational Safety and Health Administration, but does not explicitly disclose that the safety information includes building specific emergency response plans. However, OSHA teaches training guidelines that include *emergency response plans* (See P. 20). Therefore, it would have been obvious to one of ordinary skill in the art to modify the building safety training method described in Kouba, by including emergency response plans in the safety information in order to comply with the training requirements set forth in *title 29, Code of Federal Regulations Part 1910*.

Regarding claims 2-3, Kouba discloses a method of providing safety instruction corresponding to a specific building (work-site). Kouba does not explicitly disclose that the buildings are (as per claim 2) identified as Hi-rise Class A, Class B or Class C buildings or (as per claim 3) identified as located in central business districts or suburban areas of major metropolitan cities. However, it would have been obvious to an artisan to modify the site-specific safety training materials described in Kouba for any type of work-site, in order to comply with OSHA regulations in all work places, and thereby provide effective safety training to contractors whose occupation requires working at multiple work-sites for short periods of time (See Kouba, Col.1, lines 27-38).

Regarding claim 4, Kouba discloses a method wherein the building has telecommunications capabilities (See Fig. 1).

Regarding claim 5, Kouba discloses a method wherein the safety presentation is an audio-visual presentation (Col. 6, line 2).

Regarding claim 6, Kouba discloses a method wherein the audio-visual presentation is created as an interactive computerized multi-media presentation (Col. 6, lines 1-6).

Regarding claim 7, Kouba discloses a method where the audio-visual presentation may be created as non-interactive format (Col. 6, lines 1-6).

Regarding claim 8, Kouba discloses a method, wherein the presentation is deployed via the public Internet (Col. 3, lines 20-21).

Regarding claim 9, Kouba discloses a method wherein the presentation is deployed over a private area network (Col. 3, lines 34-39).

Regarding claim 10, Kouba discloses a method wherein the presentation is deployed on a customer's server (See Fig. 1).

Regarding claim 11, Kouba does not explicitly disclose that the presentation is deployed using removable media. However, OSHA teaches a method of delivering safety information, wherein a presentation is deployed using removable media (OSHA, P. 4, last paragraph). Thus, in view of OSHA, it would have been obvious to provide a presentation on a removable media, in order to vary learning materials as desired by an employer.

Regarding claim 12, Kouba does not explicitly disclose a flash drive. However, it is the examiner's position that the feature of storing a presentation on a flash drive is old and well known for providing portable learning materials so that a learner is not confined to one location for training. Therefore, it would have been obvious to one of ordinary skill in the art to provide a flash drive for

Art Unit: 3714

deploying the presentation, thereby providing portable learning materials so that a learner is not confined to one location for training.

Regarding claim 13, Kouba discloses a method wherein the testing occurs after completion of the presentation (See Fig. 3, ref. 220).

Regarding claim 14, Kouba discloses a method, wherein the testing occurs online (See Fig. 1).

Regarding claim 15, Kouba discloses a method, wherein the testing occurs via telephone (Col. 3, line 25).

Regarding claim 16, Kouba discloses an interactive tenant computer based training and testing system for deploying safety information comprising: a database storing safety information (Col. 5, lines 61-63); at least one server configured to host the safety multi-media presentations; a network configured to transmit the safety multi-media presentations; at least one computer connected to the network (See Fig. 1; Col. 5, lines 1-9). Kouba discloses a safety instruction and testing method as mandated by the Occupational Safety and Health Administration, but does not explicitly disclose that the safety information includes building specific emergency response plans. However, OSHA teaches training guidelines that include *emergency response plans* (See P. 20). Therefore, it would have been obvious to one of ordinary skill in the art to modify the building safety training method described in Kouba, by including emergency response plans in the safety information in order to comply with the training requirements set forth in *title 29, Code of Federal Regulations Part 1910*.

Regarding claim 17, Kouba discloses a system wherein the server can run several multi-media presentations simultaneously (Col. 4, lines 41-49).

Regarding claim 18, Kouba discloses a system wherein the server is configured to authenticate each user, wherein said authentication is used to determine which multi-media presentation is accessed (Col. 4, lines 52-67).

Art Unit: 3714

Regarding claim 19, Kouba discloses a system wherein the server is configured to administer an emergency response preparedness test (Col. 5, lines 1-9).

Regarding claim 20, Kouba discloses a system, wherein the server is configured to store the results of each test (See Fig. 3, ref. 228).

Regarding claim 21, Kouba discloses a system, wherein the server is configured to tabulate test results (Fig. 3, ref. 222).

Regarding claim 22, Kouba discloses a system wherein the network is the public Internet (Col. 3, lines 20-21).

Regarding claim 23, Kouba discloses a system, wherein the network is a proprietary network (Col. 3, lines 34-39).

Regarding claim 24, Kouba discloses a system, wherein the computer is configured have access to the network (See Fig. 1)

Regarding claim 25, Kouba discloses a system, where the computer is located at a recipient's place of business (See Fig. 1, ref. 40, 42, 44).

Regarding claim 26, Kouba discloses a system, wherein the computer is located in a public testing center (Fig. 1, ref. 20, 22, 24).

Regarding claim 27, Kouba discloses a system, wherein the computer is located on the same private network as the server (See Fig. 1).

Response to Arguments

Applicant's arguments filed 12/1/2006 have been fully considered but they are not persuasive. Applicant emphasizes that the rejection of claims 1-11 and 13-27 set forth under 35 U.S.C. 102(f) should be withdrawn since applicants have filed a request to correct inventorship under 37 C.F.R 1.48(a). However, this request has not been filed, and the rejection is therefore maintained.

Art Unit: 3714

Applicant additionally emphasizes that the Webster Dictionary defines "tenant" as, one that pays rent to use or occupy lands, a building, or other property owned by another. Applicant states that this clearly does not encompass employees or workers as described in Kouba. However, the examiner disagrees with this position. The Webster Dictionary additionally defines "tenant" as a dweller in a place; an occupant. Therefore, it is the examiner's position that a tenant is not limited to a renter as emphasized by applicant. Accordingly, Kouba and OSHA both disclose building safety information for tenants.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is (571) 272-4443. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Cameron Saadat

AU 3714

June 11, 2007